

STATE EDUCATION OFFICE

NOTICE OF PROPOSED RULEMAKING

The Director of the State Education Office (State Education Officer), pursuant to the authority granted by §§ 3(f)(2) and 5 (e)(2) of the District of Columbia College Access Act of 1999, as amended, approved November 12, 1999 (Pub. L. 106-98, 113 Stat. 1323; D.C. Official Code § 38-2701 *et. seq.*), Section 402 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; 48 DCR 6981), and Mayor's Order 2000-138, dated September 7, 2000, hereby gives notice of an intent to adopt a new Chapter 70 to Title 5, and repeal Chapter 70 of Title 29 of the DCMR, that contains rules governing the operation of the D.C. Tuition Assistance Grant Program (DCTAG) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed rulemaking would repeal Chapter 70 of Title 29 DCMR, "D.C. Tuition Assistance Grant Program," and create a new Chapter 70 with that same heading in Title 5 of the DCMR. Additionally, proposed amendments to the rules are intended to incorporate amendments required by the D.C. College Access Improvement Act of 2002, approved April 4, 2002 (116 Stat. 118; Pub. L. 107-157). Changes have also been made to the rules for the purpose of streamlining program administration and application processes.

Proposed Amendment: Repeal Chapter 70 of Title 29 DCMR, and adopt a new Chapter 70 of 5 DCMR to read as follows:

Chapter 70 D.C. Tuition Assistance Grant Program**7000 Application Process and Eligibility Criteria**

7000.1 Students who wish to apply for tuition assistance pursuant to the District of Columbia College Access Improvement Act of 2002 ("College Access Act") hereinafter the D.C. Tuition Assistance Grant Program (DCTAG Program), D.C. Official Code § 38-2701, shall submit an online application, the DC One App, at www.seo.dc.gov on a form prescribed by the Director of the Higher Education Financial Services (HEFS) program ("Director") and all required supporting documentation, to the District of Columbia State Education Office. DCTAG applicants will be limited to a maximum of six (6) years from the date of the first semester enrolled.

7000.2 An applicant is eligible for tuition assistance under the DCTAG Program if the applicant meets the following criteria:

- (a) Is a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Department of Homeland Security that he or she is in the United States for other

than a temporary purpose with the intention of becoming a citizen or permanent resident, or a citizen of any one of the Freely Associated States, or meets citizenship and immigration status requirements described in § 484 (a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1091 (a)(5)). Holders of A visas are not eligible for tuition assistance;

- (b) Was domiciled in the District of Columbia for not less than twelve (12) consecutive months preceding the commencement of the student's initial enrollment as a freshman at an institution of higher education;
- (c) Continues to be domiciled in the District of Columbia throughout his or her undergraduate education;
- (d) Has not completed his or her first undergraduate baccalaureate course of study;
- (e) Is enrolled or accepted for enrollment as a regular student, on at least a 1/2-time basis, in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution; or
- (f) If enrolled in an eligible institution, is maintaining satisfactory academic progress in the course of study the student is pursuing in accordance with section 494(c) of the Higher Education Act of 1965, as amended (20 U.S.C. 1091(c)) and the regulations promulgated under its authority (34 CFR § 668.32(f)).
- (g) Does not owe money on a grant previously received under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. § 1070 et seq.) or has made satisfactory arrangements to repay any money owed under this Act, and is not in default on any loan made or guaranteed under this title or has made satisfactory arrangements to repay that loan.
- (h) Has registered with the Selective Service, if required to register with the Selective Service.
- (i) Is not enrolling for a seventh year of study and has not exceeded the maximum lifetime award amount; and or
- (j) Has not reached the age of twenty-five (25) by the application deadline date, which is the last Friday in June of each year.

- (k) Meets one of the following status requirements:
- (A) Graduated from a secondary school or received the recognized equivalent of a secondary school diploma on or after January 1, 1998;
 - (B) Graduated from high school on or after January 1, 1998, but did not attend college within three (3) years after graduation or interrupted his or her college education for more than three (3) years. Such students must demonstrate that they have been domiciled in the District of Columbia for the last five (5) years; or
 - (C) Graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998 and was enrolled at an eligible institution as of the Spring 2002 term. Such students must demonstrate that they have been domiciled in the District of Columbia for the last five (5) years; or
 - (D) Did not graduate from a secondary school or received a recognized equivalent of a secondary school diploma, but is accepted for enrollment, as a regular student, as a freshman at an eligible institution on or after January 1, 2002. Such students must demonstrate that they have been domiciled in the District for the last five (5) years.

7000.3 The applicant shall submit the application form and other records, documents or information required by this section and section 7003 to the HEFS Program office after January 1st of the school year that the student will attend college. All applications are evaluated on a first-come, first served basis. Applications received after the last Friday in June will be considered late and will be funded only if funds are available.

7000.4 Applications submitted to the HEFS program office by the last Friday in June preceding the start of the school year that the student will attend college, shall be considered priority applications for the fall term of the upcoming school year. These applications must contain a completed application form and all necessary documentation or evidence as described in Section 7003 of these rules.

7000.5 Funding is subject to annual appropriations as provided by the United States Congress. Therefore, even if an applicant successfully completes the DC One App and submits the supporting documents within a timely manner this does not guarantee award funding. Funding is subject to

annual appropriations as approved and provided by the United States Federal Government.

7001 Domicile – General

- 7001.1 No person may have more than one domicile simultaneously.
- 7001.2 Domicile cannot be established initially in the District of Columbia unless one actually resides, in the sense of being physically present, in the District of Columbia.
- 7001.3 Domicile in the District of Columbia must be established by the submission of sufficient and conclusive evidence that supports the claim as outlined in Section 7003 of these rules.
- 7001.4 The burden of proof regarding the establishment of District of Columbia domicile rests with the applicant.

7002 Domicile – Determining the Person Through Whom Domicile Is Established

- 7002.1 The domicile of an applicant who is an unemancipated minor is the domicile of the minor's parent(s) or guardian(s).
- 7002.2 If the parents of an unemancipated minor are separated or divorced, the domicile of the unemancipated minor may be any of the following that places the minor's domicile in the District of Columbia:
- (a) The domicile of the parent with whom the minor resides more than 50% of the time;
 - (b) The domicile of the parent who claims the minor as a dependent for federal and District of Columbia income tax purposes;
 - (c) If neither parent claims the minor as a dependent for federal and District of Columbia income tax purposes, the domicile of the parent who provides substantial financial support as determined by the submission of evidence that supports the claim; or,
 - (d) If the parents have joint custody of the minor by court order, the domicile of the minor may be the domicile of either parent.
- 7002.3 The burden of proof to establish the person through who domicile should be established rests with the applicant.

7002.4 An applicant, who is less than twenty-four (24) years of age, is presumed to have the domicile of the parent or legal guardian listing the applicant as a dependent for federal and District of Columbia tax purposes, or the parent or legal guardian providing substantial financial support to the applicant.

7002.5 The applicant may seek to rebut the presumption of domicile by showing, through evidence that supports the claim, a domicile independent of that parent or guardian, regardless of financial dependency on the parent or guardian.

7002.6 The domicile of an independent applicant or an emancipated minor shall be established by the submission of sufficient and conclusive evidence outlined in Section 7003 of this chapter that supports the claim that the applicant has established the District of Columbia as his or her domicile.

7002.7 An applicant may be determined to be independent or an emancipated minor if he or she meets one or more of the criteria listed below before June 30th of the award period:

- (a) Is at least twenty-four (24) years old;
- (b) Is married;
- (c) Has children who receive more than 1/2 of their support from the applicant;
- (d) Has dependents (other than his/her own children or spouse) who live with him or her and receive more than 1/2 of their support from the applicant;
- (e) Is or was a ward or dependent of a court; or
- (f) Is a veteran of the U.S. Armed Forces.

7002.8 In all cases, documentation of the independence or emancipated status shall be submitted along with the application form.

7002.9 The domicile of an applicant is the District of Columbia in cases where the applicant is a ward of the Superior Court of the District of Columbia.

7002.10 The Director or the Director's designee shall have the authority to review and make a determination of domicile status for any applicant on a case by case basis if special circumstances exist that are not addressed in this section.

7003 Application Requirements

7003.1 With the first application for tuition assistance under this Chapter, the applicant shall submit sufficient documentation to establish his or her

eligibility, including evidence that the District of Columbia has been the domicile of the applicant, or the person through whom domicile of the applicant is determined, for the period of time necessary to be eligible for the program as specified in section 7000.2. The applicant shall submit the following as evidence of these requirements:

- (a) Completion of the Free Application for Federal Student Aid (FAFSA) and submission of the Student Aid Report;
- (b) Copies of the District of Columbia income tax return(s) with the name and address of the individual through which domicile will be established, certified by the District of Columbia Office of Tax and Revenue covering the applicable period of time necessary to be eligible for the program as specified in subsection 7000.2. If the applicant is claiming independent or emancipated minor status under section 7002, his or her own District of Columbia income tax forms containing his or her name and address should be submitted. Note an applicant has the option of requesting the State Education Office to obtain tax information on his or her behalf from the D.C. Office of Tax and Revenue, within the D.C. Office of the Chief Financial Officer;
- (c) Copies of documents that show receipt of financial assistance from the District of Columbia government, including financial assistance for housing or Temporary Assistance for Needy Families (TANF), covering the period of time necessary to be eligible for the program as specified in subsection 7000.2(a);
- (d) If the applicant is a ward or dependent of the District of Columbia Superior Court, an original letter on official agency letterhead verifying residency from the agency responsible for providing care;
- (e) Copies of two (2) utility bills with the name and address of the individual through whom domicile shall be established. Acceptable utility bills pursuant to this section are gas bills, electric bills, water bills, telephone bills for residential service, or cable bills with the name and address of the individual through whom domicile shall be established that are dated within forty-five (45) days preceding the submission of the application;
- (f) Wireless telephone bills are only acceptable where residential telephone service is not available;
- (g) Copies of two (2) earnings and leave statements (such as pay stubs) for separate pay periods that show the name and address of

the applicant or the individual through whom domicile shall be established, and the withholding of District of Columbia income tax. Acceptable statements pursuant to this section must be dated within forty-five (45) days preceding the submission of the application;

- (h) Affirmation and Legal Disclaimer Statement with original signatures from the student and the parent/legal guardian;
- (i) High School applicants must complete and submit the "Satisfactory Academic Progress toward Graduation" form in lieu of diploma or GED certificate; and
- (j) For applicants not currently attending a secondary institution, an official transcript, from any eligible secondary institution previously attended.

7003.2 With the second and subsequent applications, the applicant shall submit sufficient documentation to establish that the applicant, or the person through whom the domicile of the applicant is established, has not abandoned the District of Columbia as the domicile since the applicant last received tuition assistance under this Chapter. An applicant shall submit the documentation described in section 7003.1 (a) through (j).

7003.3 An individual, other than a parent or court-appointed custodian or guardian, who is the primary provider of care and support to a child who resides with him or her and whose parent, custodian, or guardian is unable to supply such care and support, must provide adequate and sufficient documentation to establish his or her domicile and support to the applicant as outlined in Sections 7002 and 7003.

7003.4 The Director or the Director's designee may request an applicant to submit copies of other documents that may be relevant in determining whether the District of Columbia is the domicile of the applicant or the person through whom the domicile of the applicant is determined, if the applicant is unable to provide the information listed above.

7004 Eligibility Determination

7004.1 Based on the application and any other records, documents, and information provided to the HEFS Program Office, an employee designated by the Director shall determine whether an applicant, in the reasonable professional judgment of the employee, is eligible to receive the tuition assistance provided by this Chapter.

7004.2 The HEFS Program Office shall send a written notification to the applicant informing him or her of eligibility to receive tuition assistance. The Letter of Eligibility ("LOE") informing the applicant that he or she is eligible to receive tuition assistance shall be delivered to the applicant by mail. If the student is determined to be eligible for tuition assistance, the HEFS Program Office will inform the institution(s) listed on the student's application.

7004.3 Receipt of a LOE by an applicant does not guarantee award funding. Funding is subject to annual appropriation as determined by the United States Congress.

7004.4 The applicant shall provide the LOE to the financial aid office of the eligible institution in which the applicant is enrolled or intends to enroll.

7004.5 If the HEFS Program Office determines that there is insufficient evidence upon which to make a determination regarding eligibility, the HEFS Program Office shall send a written notification to the applicant requesting further documentation. The Request for Information ("RFI"), informing the applicant that his or her application is incomplete shall be delivered to the applicant by mail.

7004.6 Three RFIs will be sent to the applicant at fifteen (15) day intervals. If the applicant does not respond to the third (and final) RFI by providing the documents requested, the application will be deemed "Inactive" for the school year in which the grant would be utilized. Inactive status would severely reduce the likelihood of an applicant receiving funding.

7004.7 A Letter of Ineligibility ("LOI"), informing the applicant that he or she is ineligible to receive the tuition assistance grant shall be delivered to the applicant by mail.

7004.8 If the HEFS Program Office determines that the applicant is not eligible for tuition assistance, the applicant shall be informed of the reason(s) for this determination in the letter sent under subsection 7004.7 above.

7005 Appeal of Ineligibility Determination

7005.1 An applicant who has been declared ineligible for a tuition assistance grant may appeal the ineligibility determination. All appeals of ineligibility decisions shall be reviewed by the Director.

7005.2 An appeal shall be filed within thirty (30) days of the date of the LOI, on an Appeal Form.

- 7005.3 The Appeal form must be accompanied by any information and documentation that was not previously submitted to provide a basis for reversing the initial finding of ineligibility.
- 7005.4 Only completed appeals packages received within thirty (30) days of the LOI will be considered. Once the HEFS Program Office has received a completed appeals package, the office will send the applicant a notice of receipt with a proposed date of review .
- 7005.5 A written proposed final determination regarding the applicant's eligibility status shall be issued and after consideration by the Director the final determination shall not be subject to further administrative review.
- 7006 Requirements for Institutional Participation – Program Participation Agreement**
- 7006.1 A public or private eligible institution may participate in the program only if the institution enters into a written Program Participation Agreement ("PPA") approved by the Director. The PPA shall require the institution to comply with the provisions of this Chapter and any additional conditions specified in the PPA.
- 7006.2 The PPA applies to each location of the institution that meets the applicable requirements of this chapter unless otherwise specified by the Director.
- 7006.3 By entering into a PPA, the institution agrees that it shall:
- (a) Comply with all statutory provisions of, or applicable to, the DCTAG Program, all applicable regulatory provisions prescribed under the statutory authority, and all provisions of the PPA;
 - (b) Use any funds it receives under the DCTAG Program and any interest or other earnings thereon, solely for the purpose specified in accordance with the DCTAG Program;
 - (c) Not request from or charge any student a fee for processing or handling any application, form, or data required to determine a student's eligibility for, and amount of, program assistance;
 - (d) Establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Director under the DCTAG Program, together with assurances that the institution shall provide to the Director or Director's designee, upon request

and in a timely manner, information relating to the administration of the funds;

- (e) Submit any additional reports to the Director at such time and containing such information as the Director may reasonably require to carry out the purposes of the DCTAG Program.
- (f) Submit reports to the Director on an annual basis that will provide the names of all DCTAG grantees attending the institution; their intended major(s); grade point averages and classifications (for example, freshman, sophomore, junior, senior).
- (g) Not impose any penalty, including, but not limited to, the assessment of late fees, the denial of access to classes, libraries or other institutional facilities, or the requirement that the student borrow additional funds, because of an inability to meet financial obligations to the institution as a result of the delayed disbursement of the funds by the D.C. Treasurer. This also includes delays attributable to the institution;
- (h) Comply with the institution's tuition refund policy if the student is entitled to a refund based on official or unofficial withdrawals from class or the institution and return the funds to the DCTAG program.
- (i) Notify the Director of the total withdrawal of any DCTAG participant. The payment invoice shall serve as the notice of the total withdrawal to the Director;
- (j) Be liable for all funds improperly administered by the institution under the DCTAG Program, this Chapter or the PPA, including any funds administered by its third-party servicers; and
- (k) Have information about the program, including the application, available in paper or electronic format for interested parties. Any interested party should be referred to the State Education Office's website, www.seo.dc.gov.

7006.4

The PPA shall:

- (a) Become effective on the date that the Director signs the agreement; and
- (b) Automatically terminate if the institution is no longer certified as an eligible institution under Title IV of the Higher Education Act.

- 7006.5 The Director, the Secretary of the U.S. Department of Education and state agencies that legally authorize institutions to provide postsecondary education, have the authority to share with each other any information pertaining to the institution's eligibility for or participation in the DCTAG Program or other information on fraud or abuse.
- 7006.6 The institution may terminate the PPA by providing a written notice of termination to the Director. The termination may not become effective until the end of the award year in which the notice is provided to the Director.
- 7006.7 The Director may propose to terminate the PPA for cause by providing a notice of proposed termination to the institution. For the purposes of this section, "cause" means the failure of the institution or its third-party servicer to comply with any of the requirements of the DCTAG Program, this Chapter or the PPA.
- 7006.8 The institution will respond in writing to the proposed notice provided under subsection 7006.7 within thirty (30) business days after receiving the proposed notice.
- 7006.9 After consideration of any written response submitted by the institution, the Director shall determine whether to issue a final notice of termination of the PPA and the effective date of the termination. If the Director issues a final notice of termination, this determination is final and shall not become subject to further administrative review.
- 7006.10 If the institution's PPA is terminated under either subsection 7006.4(b), 7006.6 or 7006.9, the institution shall:
- (a) Submit to the Director within forty-five (45) days after the effective date of the termination of the PPA, a letter of engagement for an independent audit of all funds that the institution received under the DCTAG Program for a period to be determined by the Director, the report of which shall be submitted to the Director within forty-five (45) days after the date of the engagement letter;
 - (b) Inform the Director of the arrangements that the institution has made for the proper retention and storage for a minimum of three (3) years of all records concerning the administration of the grant program; and
 - (c) Continue to return funds to the DCTAG Program office according to the institution's tuition refund policy.
- 7006.11 The Director reserves the right to revise the PPA on an annual basis.

7007 Requirements for Institutional Participation – Notification of Student Eligibility

7007.1 The institution shall accept from the student or the HEFS Program Office, the award letter as formal notification that the student is eligible to receive the tuition assistance grant. The institution may also receive from the DCTAG Program office other written notification of the student's eligibility.

7007.2 If the institution becomes aware of any information that raises any question regarding the student's eligibility under the criteria contained in subsection 7000.2, the institution shall notify the Director and refrain from requesting payment or withhold payment to the student's account until given approval to disburse by the Director.

7008 Requirements for Institutional Participation – Determination of Grant Amount

7008.1 The institution shall determine the amount of the tuition assistance awarded for each term for each student in accordance with the requirements for this section.

7008.2 The amount of tuition assistance that will be provided to each eligible student enrolled in a public institution shall be no more than the difference between the tuition and fees charged for in-state students and the tuition and fees charged for out-of-state students, for the fall and spring semesters only.

7008.3 If the eligible public institution has an in-county rate in addition to an in-state rate, the in-county rate, and not the in-state rate, will be used in making the calculation under subsection 7008.2.

7008.4 Students enrolled in an eligible public institution (with the exception of public community colleges) may receive the difference between in-state and out-of-state tuition and fees for each payment period they are enrolled, not including summer school or mini-terms, as long as they do not exceed the award year maximum of \$10,000 or the maximum term amount of \$5,000, for any unpaid tuition or fees for any one award year (as defined in section 481 of the Higher Education Act of 1965, as amended (20 U.S.C. 1088)), and a lifetime total of not more than \$50,000, within a six-year period.

7008.5 Students enrolled in an eligible two-year public community college may receive the difference between in-state tuition and fees and out-of-state tuition and fees for each payment period that they are enrolled, not

including summer school or mini-terms, as long as they do not exceed the maximum term amount of \$1,250 or the maximum annual amount of \$2,500 within a four-year period (cumulative award limit \$10,000).

- 7008.6 The amount of tuition assistance that will be provided to each eligible student enrolled full-time in an eligible private non-profit institution (within the Washington, D.C. metropolitan area and private Historically Black Colleges and Universities) shall be not more than \$2,500 for any unpaid tuition or fees in one award year and a lifetime total of not more than \$12,500, within a six-year period. For any payment period, the award shall be prorated for students attending private institutions and enrolled less than full time (less than 12 credit hours in a term or 24 clock hours per week) in the following manner:
- (a) Students enrolled $\frac{3}{4}$ time (9 credit hours in a term or 18 clock hours per week) shall be eligible for $\frac{3}{4}$ or the calculated full-time award for the payment period; and
 - (b) Students enrolled $\frac{1}{2}$ time (6 credit hours in a term or 12 clock hours per week) shall be eligible for $\frac{1}{2}$ of the calculated full-time award for the payment period.
- 7008.7 Students who attend an eligible institution on less than a 1/2-time basis are not eligible for the grant.
- 7008.8 If the school's academic calendar contains nonstandard terms (such as., terms other than semesters, trimesters or quarters), the school shall determine the student's enrollment status for each nonstandard term in accordance with the calculation found in the Federal Title IV Financial Aid Regulations, 34 CFR § 690.63(d)(1)(ii).
- 7008.9 The annual award shall not result in the student receiving financial assistance for tuition and fees that exceed the student's cost for tuition and fees.
- 7008.10 The tuition assistance provided under this Chapter shall apply only to tuition and fees as follows:
- (a) Except as provided in subsection 7008.9 (b), the institution shall allocate any tuition assistance grant funds received from the DCTAG program to the student's account where they shall be used to pay the student's tuition and fees, regardless of whether the institution credits those funds directly to the student's tuition and fees; and

- (b) Grants, scholarships, tuition or fee waivers, or tuition remission received by a student during a payment period may be used to pay for tuition and fees. If the tuition and fees are fully satisfied by this other assistance, the student shall not receive a grant for that payment period.

7008.11 The institution shall ensure that the amount of the annual award to an eligible student under this Chapter supplements the amount of grant aid that would otherwise be provided to the student. An award shall not be restructured based solely on the receipt of DCTAG funds.

7008.12 If adding aid under this Chapter would make the student's total aid package exceed the cost of tuition and fees, the institution shall use the funds under this Chapter to reduce the student's federal and nonfederal loans and work-study.

7009 Requirements for Institutional Participation – Grant Payment When Student Attends More than One Institution

7009.1 During any award year, a student who is enrolled at least 1/2 time in a program leading to a recognized educational credential at an eligible institution ("first institution") may receive the grant for courses taken at a second institution (eligible or non-eligible institution) if:

- (a) The student remains enrolled as a regular student at the first eligible institution during his or her study at the second institution;
- (b) The courses taken at the second institution apply toward the recognized educational credential at the first eligible institution; and,
- (c) The first eligible institution shall determine the grant amount for the tuition and fees at both institutions and request payment on behalf of the student.

7009.2 The eligible institution that requests the grant payment on behalf of the student in accordance with the agreement entered into under subsection 7009.1(c) shall take into account all courses taken by the student at each institution participating in the agreement and which apply to the recognized educational credential when determining the student's enrollment status and amount of grant, and maintain all records regarding the student's eligibility for the receipt of the grant.

7009.3 If a student who receives a grant at one eligible institution subsequently transfers to a second eligible institution in the award year, the student may

receive tuition assistance at the second institution only if the second institution complies with the requirements contained in section 7007.

- 7009.4 The second institution may receive a grant on behalf of the student under subsection 7009.3 only for that portion of the award year in which the student is enrolled in that institution.
- 7009.5 The second institution shall request payment for the student in accordance with section 7010 of this chapter.
- 7009.6 The Director shall be responsible for calculating and tracking a student's maximum annual and lifetime award amounts and adjusting them, as appropriate, to address transfers between types of schools (public to private or private to public).
- 7009.7 Each time a student transfers from one type of eligible institution to another type of eligible institution (public to private nonprofit or private nonprofit to public) the DCTAG Program will adjust the amount of the total lifetime award received to date to reflect the amount the student would have received if all awards had been received at the second type of institution. The new total lifetime award to date will be calculated by:
- (a) Dividing the total grant amount the student has received at the eligible institution from which the student is transferring by the maximum lifetime amount of grant award the student could receive while attending that type of institution (public - \$50,000, public two year- \$10,000 or private nonprofit - \$12,500); and
 - (b) Multiplying the percentage obtained under (a) above by the lifetime maximum at the type of institution to which the student is transferring to determine the student's new total award received to date.
- 7010 Requirements for Institutional Participation – Cash Management and Accounting**
- 7010.1 Each payment period, the Director shall provide the institution a roster of eligible students who have expressed an interest in attending the institution.
- 7010.2 Each payment period, the institution shall submit to the Director a roster of eligible students for payment that contains the following:
- (a) The institution's Tax Information Number (TIN) and the Dun & Bradstreet Number (DUN); and

- (b) The social security number, name, and address of record of each eligible student enrolled at the institution, his or her enrollment status, the amount of tuition specific aid (grant money, scholarship, tuition or fee waivers, or tuition remission) the student received, the amount of tuition and fees charged the student for the payment period, the amount of tuition and fees that would be charged to an in-state student (if a public institution) for that payment period; the award amount that should be paid to the institution on behalf of the student for that payment period; the student's major course of study; and the current overall grade point average (GPA), if applicable.

- 7010.3 An institution shall determine the amount to request for each payment period by dividing the total amount of the annual award by the number of payment periods the institution expects the student will attend in that award year. The maximum award amount per pay period at eligible public institutions shall be \$5,000 and \$1,250 at eligible private nonprofit institutions and public two year community colleges.
- 7010.4 The institution shall submit the roster to the Director after the institution's zero refund policy date in order to account for the most accurate information with respect to the student's enrollment status.
- 7010.5 If the student registers for an additional course after the institution has submitted its roster to the Director for payment, the institution may submit a supplemental roster for payment, except that the amount of payment requested may not result in the institution receiving on behalf of the student more money than is authorized under the DCTAG Program.
- 7010.6 Upon receipt of the institutional roster, the Director or Director's designee shall review the information on the roster to determine that each student listed as eligible for the grant has filed an application for the grant and is eligible to receive the grant.
- 7010.7 If the Director determines that a student on the roster has not submitted the appropriate documents and is not eligible for a grant, the Director shall notify the institution.
- 7010.8 The Director shall determine the aggregate amount of funds to be paid to the institution on behalf of all eligible students attending the institution.
- 7010.9 The Director shall transmit funds to the institution's account by use of the Automated Clearing House/Electronic Funds Transfer (ACH/EFT) or check within thirty (30) business days of receipt of the roster for payment of funds from the institution.

- 7010.10 The Director shall provide to the institution a roster reflecting the names, social security numbers, and amounts of payment for each student transmitted to the institution's account.
- 7010.11 The Director may require the institution to maintain the tuition assistance program funds in a separate bank or investment account that contains no other funds if the Director determines that the institution failed to comply with:
- (a) The requirements of this section;
 - (b) The recordkeeping and reporting requirements in subsections 7012.2 through 7012.8; or
 - (c) Any other requirements of this Chapter.
- 7010.12 The institution shall maintain accounting and internal control systems that identify the cash balance of the tuition assistance funds that are included in the institution's bank or investment account as readily as if those program funds were maintained in a separate account.
- 7010.13 The institution shall maintain its financial records in accordance with the requirements contained in subsections 7012.2 through 7012.8.
- 7010.14 The institution shall exercise the level of care and diligence required of a fiduciary with regard to administering tuition assistance program funds.
- 7011 Requirements for Institutional Participation - Disbursement and Recovery of Funds**
- 7011.1 The institution shall disburse the grant funds to the student's individual account no later than thirty (30) business days after receipt of the funds from the Director. For the purposes of this section, a disbursement of grant funds occurs on the date the institution credits the student's individual account at the institution.
- 7011.2 The institution shall disburse the funds on a payment period basis.
- 7011.3 The institution shall notify the student of the date and the amount of the disbursement of grant funds.
- 7011.4 The institution may make a late disbursement to the student's account for a student who becomes ineligible for the grant when:
- (a) The student became ineligible for the grant solely because the student is no longer enrolled at the institution for the award year;

- (b) The institution did not credit the student's account before the student became ineligible for the grant; and
- (c) The institution received the LOE from the student before the student became ineligible for the grant.

7011.5 If the student qualifies for a late disbursement under subsection 7011.4, the institution may use the funds only to pay for the tuition and fees that the institution determines the student incurred for the period in which the student was enrolled and eligible.

7011.6 If after disbursing the grant funds to the student's account, the student has a credit balance for tuition and fees because the student or parent made a cash payment to cover tuition and fees, the institution shall pay the resulting credit balance to the student or parent, as appropriate, no later than thirty (30) business days after the credit balance occurred for that payment period, unless the student or parent has authorized the institution in writing to hold the credit balance to cover future charges.

7011.7 If an institution or the Director's office determines, as a result of their ongoing reconciliation process, that the institution received more award money on behalf of the student than the student was eligible to receive, the institution shall eliminate the overpayment by:

- (a) Adjusting subsequent award payments in the award year in which the overpayment occurred; or
- (b) If the institution cannot correct the overpayment under paragraph (a) of this subsection, returning the excess funds to the Director within thirty (30) business days of the institution's or the DCTAG Program Office's determination that there has been an overpayment.

7011.8 When a recipient of the grant withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the institution shall apply its institutional refund policy to determine the amount of the grant to be returned to the DCTAG Program.

7012 Requirements for Institutional Participation - Audits and Records Access and Retention

7012.1 An institution shall comply with the applicable audit requirements contained in Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

- 7012.2 An institution shall establish and maintain, on a current basis, any program records that document its eligibility to participate in the DCTAG Program, its administration of the program requirements, and its disbursement and delivery of all program funds.
- 7012.3 An institution shall account for the receipt and expenditure of funds under the DCTAG Program in accordance with generally accepted accounting principles, and shall establish and maintain on a current basis:
- (a) Financial records that reflect each program transaction; and
 - (b) General ledger control accounts and related subsidiary accounts that identify each program transaction and separates those transactions from all other institutional financial activity.
- 7012.4 The records that an institution shall maintain in order to comply with the provisions of this section include but are not limited to:
- (a) A copy of the payment roster sent to the institution;
 - (b) The amount of the student's grant for the award year, the payment periods, the calculation used to determine the amount of the grant, and the date and amount of each grant disbursement;
 - (c) The amount, date, and basis of the institution's calculation of any refund or overpayment due on behalf of the student;
 - (d) The date of payment of any refund or overpayment to the District;
 - (e) Reports and forms used by the institution in its participation in the program and any records needed to verify data that appears in these reports and forms;
 - (f) A copy of any written agreements between the institution and another eligible institution that impact a student's participation in the program; and
 - (g) On an award year basis (at the end of the award year), the number of eligible District of Columbia residents receiving the grant and that obtain a recognized educational credential.
- 7012.5 An institution shall maintain required records in a systematically organized manner.
- 7012.6 An institution shall make its records available for review by the Director.

7012.7 An institution may keep required records in hard copy or in microform, computer file, optical disk, CD-ROM, or other media format, provided the record information is retrievable in a coherent hard copy format or in other formats acceptable to the Director.

7012.8 An institution shall keep records relating to its administration of the program for three (3) years after the end of the award year for which the grant was awarded.

7099 Definitions

7099.1 For purposes of this chapter, the following terms and phrases shall have the meanings ascribed:

Academic year - has the same meaning as set forth in 34 CFR § 668.2 (1999), as amended from time to time.

Annual award - the maximum amount of grant funds a student may receive during a full academic year for a given enrollment status and includes the cost of tuition and fees.

Award year - the period beginning July 1 and ending June 30 of the following year.

Cost of Attendance ("COA") - the cost of the student's education expenses including, but not limited to, tuition, fees, books, supplies and student living expenses while he or she is attending college. If the student does not file a Free Application for Federal Student Aid ("FAFSA"), COA is assumed to be the average cost of attendance for undergraduate students as determined by the institution.

Director or the Director of the Higher Education Financial Services - the individual designated in accordance with Mayoral Order 2000-138 and Section 402 of the Fiscal Year 2002 Budget Support Act of 2001, effective October 3, 2001 (D.C. Law 14-28; 48 DCR 6981) to be responsible for the direction and supervision of the administration and management of the Grant Program Office.

Domicile - present fixed place of residence of an individual to which he or she returns following temporary absences and at which he or she intends to reside continuously while receiving the grant award.

Emancipated minor - a person under the age of 24 whose parent(s) or legal guardian has surrendered the right to his or her care, custody, and earnings and who no longer claims him or her as a dependent for tax purposes.

Fees - the mandatory charges imposed on all undergraduate students as a condition of enrollment toward a degree or certificate. It does not include particular charges that may vary by course or student, such as course-specific lab fees, studio fees, parking fees or fines, or room and board.

Freshman Year - the first year of college attendance after graduation from high school, earning a G.E.D., or being no longer enrolled in high school, regardless of the number of college credit hours the applicant was enrolled for while attending.

Grant - the funds provided by the DCTAG Program unless otherwise stated.

Independent applicant – a student, twenty-four (24) years of age or older, whose parent(s) or legal guardian has surrendered the right to his or her care, custody, and earnings, does not claim the student as a dependent on federal or state income tax returns, and has ceased to provide the applicant with substantial financial support. This definition is the same as the Title IV definition for independent applicant.

Institution of higher education means an educational institution that –

- (a)
 - (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within a State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or private nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within reasonable time.
- (b) The term also includes—
 - (1) Any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4), and (5) of subsection (a); and
 - (2) A public or nonprofit private educational institution in any State that, in

lieu of the requirement in subsection (a)(1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Legal guardian - a person who is appointed by court order or who is the primary provider of care and support to a child who resides with him or her and who is charged with the care, custody, and responsibility of a person under the age of twenty-one (21) years.

Parent - the applicant's natural or adoptive mother or father.

Payment Period - has the same meaning as set forth in 34 CFR § 668.4, as it is amended from time to time.

Period of Enrollment - the academic period established by the institution for which institutional charges are generally assessed (such as the length of the student's program or academic year).

Private eligible institution means an institution that -

- (a)(1) Is a private, nonprofit, associate or baccalaureate degree granting, institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001(a)), the main campus of which is located in the following:
 - (A) The District of Columbia;
 - (B) The cities of Alexandria, Falls Church, or Fairfax, or the counties of Arlington or Fairfax, in the Commonwealth of Virginia, or
 - (C) The counties of Montgomery or Prince George's in the State of Maryland;
- (2) Is eligible to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*); and
- (3) an agreement with the Director containing such conditions as the Director may specify, including a requirement that the institution use the funds made available to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia; or
- (b) Is a private historically black college or university (for purposes of this

subparagraph such term shall have the meaning given the term "part B institution" in section 322(2) of the Higher Education Act of 1965, as amended (20 U.S.C. 1061(2)).

Public eligible institution means an institution that:

- (a) Is a public institution of higher education located in the United States of America, including Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands;
- (b) Is eligible to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*); and
- (c) Enters into an agreement with the Director containing such conditions as the Director may specify, including a requirement that the institution use the funds made available under the DCTAG Program to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia

Public eligible two year community college means a college that:

- (a) Is a public two year institution of higher education located in the United States of America, including Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands;
- (b) Is eligible to participate in the student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070 *et seq.*); and
- (c) Enters into an agreement with the Director containing such conditions as the Director may specify, including a requirement that the institution use the funds made available under the DCTAG Program to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia.

Recognized equivalent of a secondary school diploma. An applicant may establish the equivalent of a secondary school diploma by one of the following: -

- (a) A General Education Development Certificate (GED);
- (b) A State certificate received by a student after the student has passed a State-authorized examination that the State recognizes as the equivalent of a secondary school diploma;

- (c) An academic transcript showing the completion of at least a two-year program on the postsecondary level that is acceptable for full credit towards a bachelor's degree; or
- (d) Proof that an applicant who has not completed secondary school has met the formalized, written policies of the institution for admitting such students.

Regular Student - one who is enrolled in an institution to obtain a degree or a certificate and is not enrolled as a special, conditional or transient student.

Secretary - the Secretary of the U.S. Department of Education.

State - all states within the United States of America, the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, and the Northern Mariana Islands.

Substantial financial support - that the applicant receives over 1/2 of his or her financial support from the applicant's parent(s), legal guardian or primary provider of care and support.

Third-Party Servicer - has the same meaning as set forth in 34 CFR § 668.2 (1999), as may be amended from time to time.

Title IV Programs - those federal student aid programs authorized under Title IV of the Higher Education Act of 1965 (20 U.S.C. § 1070 *et seq.*)

Tuition - the charges imposed to attend an eligible institution of higher education as a student.

Unemancipated minor - a person under the age of 24 who is under the legal control of and is financially supported by his or her parent(s) or legal guardian.

All persons desiring to comment on this proposed rulemaking should file written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be hand delivered or mailed to John Parham, Director, Higher Education Financial Services, State Education Office, 441 4th Street, N.W., Suite 350 North, Washington, D.C. 20001. Copies of these proposed rules may be obtained at the address stated above.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING**

**ZC Case No. 07-19
(Text Amendment – 11 DCMR)
Repeal of 11 DCMR § 411.10**

The Zoning Commission for the District of Columbia, pursuant to its authority under §§ 1 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend Chapter 4 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR)) by repealing § 411.10.¹

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register and not prior to its completion of its hearing on the petition and the conclusion of the thirty day period of review by the National Capital Planning Commission.

The proposed amendment would repeal the requirement that the Zoning Administrator submit roof structure plans to the Office of Planning for its review and report within fifteen (15) days of the submission.

The following rulemaking action is proposed:

Amend 11 DCMR to repeal § 411.1.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, the Secretary of the Zoning Commission, Office of Zoning, Suite 200, 441 4th Street, N.W., Washington, D.C., 20001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

¹ Subsection 411.10 now reads:

Before taking final action on a roof structure plan, the Zoning Administrator shall submit the plan to the D.C. Office of Planning from review and report. The report shall be returned within fifteen (15) days of the date of submission unless a different period has been provided by mutual agreement of all parties involved.

**D.C. DEPARTMENT OF HUMAN RESOURCES
METROPOLITAN POLICE DEPARTMENT**

NOTICE OF PROPOSED RULEMAKING

The Director, D.C. Department of Human Resources, and the Chief, Metropolitan Police Department, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title VIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 *et seq.*) (2001), hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, the following proposed rules. These rules would amend section 807.1 (e) of Chapter 8, Career Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), for the purpose of providing that a former member of the Metropolitan Police Department may be reinstated to a rank no higher than the rank last held. Additionally, the following amendments are being proposed: (1) an amendment to section 813.3 of the chapter, to add a provision stating that an employee who enters on active military duty before he or she completes probation shall be required to complete the remaining portion of the probationary period upon the employee's return from active military duty, provided that the employee has restoration rights in accordance with section 827 of the chapter; and (2) amendments to section 822 of the chapter on "*Temporary Appointment Pending Establishment of a Register*" or "*TAPER*," to clarify the conditions for such appointments, including extensions, and conversion and termination provisions. Upon adoption, these rules will amend Chapter 8, Career Service, of Title 6 of the DCMR, published at 30 DCR 2555 (May 27, 1983) and amended at 30 DCR 4608 (September 9, 1983), 31 DCR 2715 (June 1, 1984), 32 DCR 1857 (April 5, 1985), 32 DCR 2473 (May 3, 1985), 32 DCR 2953 (May 24, 1985) (Errata), 33 DCR 4299 (July 18, 1986), 35 DCR 1087 (February 19, 1988), 36 DCR 6069 (August 25, 1989), 37 DCR 3952 (June 15, 1990), 37 DCR 7117 (November 9, 1990), 42 DCR 3520 (July 7, 1995), 45 DCR 451 (January 23, 1998), 45 DCR 1641 (March 20, 1998), 47 DCR 2419 (April 7, 2000), 48 DCR 8973 (September 28, 2001), 49 DCR 1859 (March 1, 2002), 49 DCR 6842 (July 19, 2002), 49 DCR 8368 (August 30, 2002), 49 DCR 9298 (October 11, 2002) (Errata), 51 DCR 9706 (October 15, 2004), 51 DCR 10410 (November 12, 2004); 53 DCR 3248 (April 21, 2006), and 54 DCR 725 (January 26, 2007).

CHAPTER 8

CAREER SERVICE

Chapter 8 of the D.C. Personnel Regulations is amended as follows:

Section 807.1 is amended to read as follows:

807 AGE REQUIREMENTS

807.1 Notwithstanding the provisions of section 803.2 of this chapter, the following specific age requirements shall be the only age requirements for employment in the Career Service:

- (a) Except as otherwise provided herein, the minimum age requirement for employment in the Career Service shall be sixteen (16) years old;
- (b) For initial appointment to a firefighter position in the Fire and Emergency Medical Services Department (FEMSD), an applicant shall have reached his or her nineteenth (19th) birthday, but must not have passed his or her thirty-first (31st) birthday as of the date of application;
- (c) For reinstatement to a rank no higher than the rank last held, a former uniformed member of the FEMSD shall not have passed his or her thirty-fifth (35th) birthday at the time of application and shall meet the following requirements:
 - (1) Submit his or her request for reinstatement in writing to the Fire Chief;
 - (2) Successfully pass a background investigation; and
 - (3) Be found physically qualified based on successfully passing a medical examination and any other examinations or tests required by the FEMSD of an entry-level candidate; except that no former member shall be required to take the entry-level written examination again;
- (d) For initial appointment with the Metropolitan Police Department (MPD) to a police private position, an applicant shall have reached his or her twenty-first (21st) birthday, and shall have applied for appointment prior to his or her thirty-fifth (35th) birthday; except that an individual who has successfully completed the D.C. Police Cadet Training Program may be appointed to a probationary police officer position after having reached his or her twentieth (20th) birthday;
- (e) The Chief of Police may consider a uniformed member for reinstatement to the MPD to a rank no higher than the rank last held, after the former member meets the following requirements:
 - (1) Submit his or her request for reinstatement in writing to the Police Chief;
 - (2) Successfully passes a background investigation; and
 - (3) Is found physically qualified based on successfully passing a medical examination and any other examinations or tests required by the MPD of an entry-level candidate; except that no former member shall be required to take the entry-level written examination again;
- (f) As authorized under 5 U.S.C. § 3307, for initial entry into positions subject to the Civil Service Retirement system under 5 U.S.C. § 8336 (c), which does not include those covered under sections 807.1 (b) and (c) of this section, the maximum age shall be thirty-four (34); and

- (g) As authorized under D.C. Official Code § 1-2513 (b) (2001), it shall not be an unlawful discriminatory practice to establish minimum and maximum age limits for appointment to police officer cadet or firefighter cadet positions; and
- (h) Notwithstanding the provisions of 807.1(a) of this section, the Director, D.C. Department of Human Resources and the Police Chief, unless specifically prohibited by law or regulation, may establish higher minimum age requirements for appointment to specific positions or classes of positions, or to positions established under specific employment programs.

Section 813.3 is amended to read as follows:

- 813.3 (a) An employee who is transferred under this chapter, or promoted or reassigned under this chapter before he or she completes probation, shall be required to complete the remaining portion of the probationary period in the new position.
- (b) An employee who enters on military duty before he or she completes probation shall be required to complete the remaining portion of the probationary period upon the employee's return from active military duty, provided that he or she has restoration rights in accordance with section 827 of this chapter.

The heading of the section is changed from "TAPER;" and sections 822.1 through 822.6 are amended to read as follows:

822 TEMPORARY APPOINTMENT PENDING ESTABLISHMENT OF A REGISTER (TAPER)

- 822.1 A personnel authority may fill a vacancy to a permanent Career Service position by a "Temporary Appointment Pending Establishment of a Register" or "TAPER," under the following circumstances:
- (a) When there are insufficient eligibles on an appropriate register or in the absence of a list of eligibles; and
 - (b) Authorization to appoint outside the register via a TAPER is granted by the personnel authority.
- 822.2 A person being considered for a TAPER shall meet the minimum qualifications requirements for the position.
- 822.3 The following conditions shall apply to extensions and termination of each TAPER processed by the personnel authority:
- (a) A TAPER shall be terminated as soon as a list of eligibles for the permanent appointment can be established and a selection is made by open competition in accordance with this chapter.

- (b) The initial TAPER shall not exceed ninety (90) days; and shall not be extended more than one (1) time, for a period of up to ninety (90) days, and only if the personnel authority determines that a list of eligibles cannot be created.
- 822.4 A person hired in a TAPER may be converted to a Career Appointment Probational or Career Appointment Permanent only if one (1) of the following is true:
 - (a) The person is otherwise eligible for such conversion under the provisions of this chapter; or
 - (b) The person is selected for the permanent position as a result of open competition.
- 822.5 Except as specified in this section, the person hired under a TAPER shall not be subject to the job protection rights of chapters 16 and 24 of these regulations; and shall receive rights and benefits accorded by this chapter to temporary Career Service employees.
- 822.6 For the purposes of this section, the term "open competition" referred to in sections 822.3 and 822.4 means "competition open to the general public."

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, D.C. Department of Human Resources, 441 4th Street, N.W., Suite 310S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed regulations are available from the above address.

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF PROPOSED RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 125 of the Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.25)(2001), hereby gives notice of his intent to amend section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*. The proposed amendment will modify the permissible reasons for which an insurer may non-renew or cancel a policy of homeowners' insurance, and for the use of claims history information.

Section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations is amended to read as follows:

**5000 PERMISSIBLE REASONS FOR NON-RENEWAL/CANCELLATION
AND USE OF CLAIMS HISTORY INFORMATION**

- 5000.1 An insurer shall not refuse to renew a policy of homeowners' insurance solely due to claim or loss frequency unless there have been two (2) or more claims during the preceding three (3) year period. For the purposes of this subsection, an insurer shall not consider:
- (a) The first claim for a loss caused by weather, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and such failure to maintain contributed to the loss;
 - (b) Any claim that was reported to the insured's agent or insurer as an inquiry for which no payment was made by the insurer;
 - (c) A loss for which there was no investigation or other claim activity; or
 - (d) Any losses caused by a catastrophic event. For the purposes of this paragraph, the term "catastrophic event" means a manmade or natural event that causes twenty-five million dollars (\$25,000,000) or more in insured property losses and affects multiple property and casualty policyholders or insurers.

- 5000.2 An insurer shall not refuse to renew a policy of homeowners' insurance solely because of damages requiring repairs that are discovered during a renewal or loss inspection, unless the insurer has allowed the insured a reasonable time-frame in which to repair the damages.
- 5000.3 An insurer shall comply with the rate making standards of section 3 of An Act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 243; D.C. Official Code § 31-2703 (2001)) with respect to any increase in the premium on a policy of homeowners' insurance that is due to claim or loss frequency, including any policy surcharge, movement between classes or tiers, or the removal or reduction of a discount. All such increases (does this include surcharges and rescinded discounts?) in premium shall be consistent with the insurer's filed rate plan.
- 5000.4 An insurer shall provide a notice to its homeowners' insurance policyholders that the insurer considers claims history in determining whether to renew the policy. Such notice may be on the declarations page or on a separate notice that accompanies the policy so long as the notice is conspicuous and includes the following statement: "Your insurer may consider your claims and loss history when determining whether to renew your policy."
- 5000.5 Anytime an insurer attempts to cancel or non-renew a policy of homeowner's insurance based on an insured's claims or loss history, the insurer shall specify the reasons for such action and such reasons shall include the date of the claim or loss, the amount of the claim or loss, the type of insurance applicable to the claim or loss, the name of the insurer of the claim or loss, and a brief statement of the circumstances that created the claim or loss. Such specification of reasons shall include enough information so that the insured can have an adequate basis for refuting the accuracy of any claim or loss history specified as reasons for the cancellation or non-renewal decision of the insurer.
- 5000.6 An insurer may refuse to renew a policy of homeowners' insurance due to claim or loss frequency based upon standards more restrictive than those set forth in this section if, at the time of policy issuance or renewal, the insurer provided the insured with a conspicuous, written copy of the more restrictive underwriting standards upon which the insurer proposes to base its non-renewal decisions, and an explanation of how the more restrictive underwriting standards differ from those established by any District law or regulation.

Persons desiring to comment on these proposed rules should submit comments in writing to Ms. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.

**DISTRICT OF COLUMBIA OFFICE OF THE STATE SUPERINTENDENT OF
EDUCATION****NOTICE OF PROPOSED RULEMAKING**

The Office of the State Superintendent of Education, pursuant to the authority set forth in the District of Columbia Placement of Students with Disabilities in Nonpublic Schools Amendment Act, effective March 14, 2007 (D.C. Law 16-0269, D.C. Official Code § 38-2561.01 *et seq.*), and Mayor's Order 2007-149, effective June 28, 2007, hereby gives notice of its intent to adopt a new Chapter 51 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), entitled "Rate Setting for Non Public Schools," in not less than 30 days from the date of publication of this notice in the *D.C. Register*. The purpose of the new chapter is to establish procedural rules to administer and implement a rate-setting process for the payment of tuition and related services to nonpublic special education schools and programs that provide special education and related services to students with disabilities funded by the District of Columbia.

5 DCMR Chapter 51 is adopted to read as follows:

CHAPTER 51 RATE SETTING FOR NONPUBLIC SCHOOLS**Section**

- 5100 General Provisions
- 5101 Funding
- 5102 Process for Establishing Interim Rates
- 5103 Rate Setting Reconsideration for Nonpublic Schools
- 5104 Rate Setting for Nonpublic Schools Reconsideration Panel
- 5199 Definitions

5100 GENERAL PROVISIONS

- 5100.1 The provisions of this chapter are issued pursuant to D.C. Official Code § 38-2561.01 *et seq.*, and Mayor's Order 2007-149, effective June 28, 2007.
- 5100.2 Student records, documents, correspondence, and other materials received in accordance with the provisions of this chapter shall be reviewed pursuant to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99), and any other applicable District of Columbia or federal confidentiality statutes.
- 5100.3 The purpose of this chapter is to establish procedural rules to administer and implement a rate-setting process and establish rates for the payment of tuition and related services to nonpublic special education schools and programs (i.e. non public programs) that provide special education and related services to students with disabilities funded by the District of Columbia.

5101 FUNDING

- 5101.1 A nonpublic special education school or program serving students who are funded by the District of Columbia shall enter into a contract with the District government accepting rates set by the Office of the State Superintendent of Education (OSSE).
- 5101.2 A contract is not required for a student whose placement has been ordered by a District of Columbia Court, a federal court, or a hearing officer pursuant to IDEA. However the rates established shall apply for the purpose of payment.
- 5101.3 Contracts with nonpublic schools or programs shall be made consistent with the format provided by the OSSE.

5102 INTERIM RATES

- 5102.1 For the 2007-2008 school year, interim rates shall be issued for approved programs. These rates shall be in effect until the prospective 2008-09 rates are calculated and approved. The following process will occur to establish interim rates.
- 5102.2 The OSSE shall accept approved Maryland or Virginia rates for nonpublic schools located in the District of Columbia upon submission of certified cost sheets or related certified documentation from the Maryland State Department of Education, or the Virginia Department of Education, to the OSSE.
- 5102.3 The OSSE shall establish interim rates for nonpublic schools and programs located in the District of Columbia that have not been approved by the Maryland State Department of Education, or the Virginia Department of Education rate setting process based upon, but not limited to:
- (a) Costs analyses for the previous three years;
 - (b) Program budget including, but not limited, to personnel, capital, tuition and related service costs;
 - (c) Administration costs;
 - (d) Rates established by surrounding jurisdictions;
 - (e) Inflation factors; and
 - (f) Other factors as appropriate.
- 5102.4 For nonpublic schools and programs located in Maryland, the OSSE shall adopt and apply existing Maryland rates upon the submission of certified costs sheets

and related certified documentation from the Maryland State Department of Education, to the OSSE.

5102.5 For nonpublic schools and programs located in Virginia, the OSSE shall adopt and apply existing Virginia rates upon the submission of certified cost sheets and related certified documentation from the Virginia Department of Education, to the OSSE.

5102.6 For residential nonpublic schools and programs outside of Maryland and Virginia, the OSSE shall consider existing out of state school rates upon certified documentation from the respective states, to the OSSE.

5103 RATE SETTING RECONSIDERATION FOR NONPUBLIC SCHOOLS

5103.1 A nonpublic special education school or program may file with the OSSE a petition for reconsideration of a rate, or interim rate approved by the OSSE by the Rate Reconsideration Panel (hereinafter, the Panel) within thirty (30) days of the nonpublic special education school or program's notification of rates from the OSSE.

5103.2 Reconsideration eligibility shall be based upon the following requirements:

- (a) A rate is eligible for reconsideration only for matters that relate to the ability of the nonpublic special education school or program to meet the requirements of an IEP for a student placed by a District of Columbia agency.
- (b) Requests for reconsideration apply only to an aggregate rate for students funded by the District government.
- (c) The rate may not be reconsidered for individual students, except when the panel makes case-by-case exceptions for students the Panel determines have unique or highly specialized needs that cannot be properly addressed and funded through an aggregate rate.

5103.3 A reconsideration request shall state briefly and specifically the following:

- (a) The relief requested;
- (b) The basis for the relief; and
- (c) Sufficient and appropriate information to allow an analysis of the claim.

5103.4 The request for reconsideration may include written arguments or a request to present an oral argument. For oral arguments a school or program shall have the following rights:

- (1) The right to present all relevant evidence by means of witnesses, books, papers, and other documents; and
- (2) The right to examine opposing witnesses on any matter relevant to the issues.

5103.5 The Panel shall grant or deny a request for reconsideration within forty-five (45) days after the filing of the request.

5103.6 The decision of the Panel is final and binding.

5104 RATE SETTING FOR NONPUBLIC SCHOOLS RECONSIDERATION PANEL

5104.1 The Panel shall be comprised of the following individuals:

- (a) One individual designated by the Chancellor of DCPS;
- (b) One individual designated by the State Superintendent of Education;
- (c) One individual designated by the Chief Financial Officer;
- (d) One individual designated by the Director of the Department of Health;
- (e) Two parents of students with disabilities, designated by the Mayor; and
- (f) One representative, designated by the Mayor, of a nonpublic special education school or program serving students from the District of Columbia.

5104.2 The representative of the nonpublic special education school or program shall recuse himself or herself from any cases involving his or her school or program.

5104.3 The officers of the Panel shall be the Chairperson, the Vice Chairperson, and the Secretary.

5104.4 The Panel shall elect by a majority vote of the Panel, a member of the Panel to serve as the Chair, Vice Chairperson, and Secretary of the Panel. A newly elected Chairperson, Vice Chair person, or Secretary shall take office immediately following their election

5104.5 Officers shall be elected between August 15th and September 30th. The term of office shall be for one (1) year. Officers may be re-elected. Vacancies may be filled at any time.

- 5104.6 The election of officers shall take place at a public meeting of the Panel.
- 5104.7 A Panel member shall not concurrently hold more than one office on the Panel.
- 5104.8 The Panel Chairperson who shall perform the following duties, except as otherwise provided by this chapter:
- (a) Coordinate all the business of the Panel;
 - (b) Call and preside at meetings of the Panel;
 - (c) Act as spokesperson for the Panel;
 - (d) Coordinate the work of the Panel; and
 - (e) Perform all other duties specified by law or this chapter.
- 5104.9 The Chairperson or his or her designee shall make all formal statements in the name of the Panel. The Chairperson shall speak, write and act on behalf of the Panel on the issues consistent with the functions, objectives and purposes of the Panel.
- 5104.10 Between meetings of the Panel, the Chairperson shall be the principal point of contact between the Panel and the OSSE regarding implementation of decisions of the Panel, preparation of agendas for Panel meetings, and other matters.
- 5104.11 The Panel Vice-Chairperson shall perform the following duties:
- (a) Assist the Chairperson in the performance of the Chairperson's duties; and
 - (b) Perform the duties of the Chairperson in the absence of the Chairperson.
- 5104.12 When the Panel determines by a majority of those present and voting that the Chairperson is unable or unwilling to act, the Vice Chairperson shall perform the duties of the Chairperson.
- 5104.13 When acting as the Chairperson, the Vice Chairperson shall have all the powers of, and be subject to all the restrictions upon, the Chairperson.
- 5104.14 The Panel Secretary shall consult with the OSSE regarding the preparation and distribution of the minutes and summary of attendance of Panel meetings, and preparation and distribution of notices for Panel meetings, in accordance with this chapter or as required by law. The Secretary shall sign all minutes approved by the Panel.

- 5104.15 The Panel may assign additional duties to any officer or Panel member.
- 5104.16 Panel members shall serve without compensation.
- 5104.17 The Panel shall refrain from taking action that would result in a conflict of interest or the appearance of a conflict of interest.
- 5104.18 The Panel may at any time, when appropriate, by a majority vote of the serving Panel members remove from office any Panel member, whenever in their judgment the Panel member is not acting in the best interest of children with disabilities served by DCPS.
- 5104.19 Panel members are expected to attend scheduled meetings of the Panel. Three consecutive (unexcused) absences shall be grounds for removal for the Panel.
- 5104.20 In any recommendation regarding unethical behavior, the Panel shall act in accordance with applicable laws and regulations of the District of Columbia.
- 5104.21 The Panel may have two (2) kinds of meetings:
- (a) Public meetings, which shall be open to the public, and which shall be the only meetings at which official action of any kind may be taken;
 - (b) Executive meetings, from which the Panel may exclude the public.
- 5104.22 The Secretary of the Panel shall keep minutes of each public meeting.
- 5104.23 Public meetings of the Panel shall be held at a time and place designated by the Panel in one or more public notices, which shall be made at least ten (10) days prior to the time of the meeting, showing the date, time and place thereof. Public notice shall consist of:
- (a) Publication of the Panel's meeting schedule in the *District of Columbia Register*; and
 - (b) Posting the Panel's meeting schedule at the principal office of the Panel.
- The Chairperson or a majority of the Panel members may with five (5) days notice to the Panel, schedule additional public meetings.
- 5104.24 The Panel may, without prior public notice, cancel a public meeting. The Panel may reschedule a public meeting without prior notice if such action is taken at a public meeting. The Panel may adjourn a public meeting or continue it to another time without prior notice.

- 5104.25 The Chairperson or a majority of the Panel members may call additional executive meetings, provided that reasonable notice in person or by telephone, telefax, or mail has been given to each Panel member of the meeting date, time, and place.
- 5104.26 Four (4) members of the Panel shall constitute a quorum for the transaction of official business at a meeting. If less than a quorum of the panel is present at a meeting, the Panel members present may adjourn the meeting without further notice.
- 5104.27 Each Panel member shall have one vote on all matters coming before the Panel. A roll call vote may be requested by any Panel member.
- 5104.28 No Panel member may vote by proxy.
- 5104.29 Each resolution of the Panel shall be signed by the Chairperson and maintained in a separate file of the Panel.
- 5104.30 The order of business before the Panel at an official meeting shall be as shown on the agenda for the meeting, as accepted by the Panel at the start of the meeting. Additions to the agenda may be accepted during the meeting.
- 5104.31 Insofar as possible, when a Panel member proposes an action to the Panel, that Panel member shall prepare and distribute to the Panel, in advance of the public meeting, a written resolution embodying the proposed action.
- 5104.32 Members of the Panel shall:
- (a) Be sensitive to the goals of the Panel;
 - (b) Be regular in attendance at meetings of the Panel;
 - (c) Participate actively in the work of the Panel;
 - (d) Respect the viewpoints and opinions of other Panel members;
 - (e) Support the leadership of the Panel;
 - (f) Make official statements on behalf of the Panel only when authorized by the Panel to do so;
 - (g) In public conversation, state clearly when the member is speaking as an individual or on behalf of the Panel;
 - (h) Refrain from using Panel membership as a basis for obtaining personal benefit or privilege; and

- (i) Refrain from taking any action that would result in a conflict of interest or the appearance of a conflict of interest.

- 5104.33 In conducting its business the Panel shall follow the latest edition of *Robert's Rules of Order* in all matters not covered by this chapter.
- 5104.34 The Panel may implement this chapter and other rules of the Panel by written policies and administrative issuances as the Panel may deem necessary.
- 5104.35 Except for the authority vested in the Panel by law, and to the extent consistent with the rules of the Panel, the Panel may delegate authority to implement this chapter and other Panel rules to the OSSE.
- 5104.36 The Panel shall maintain a management information system for all records in a space designated and provided by the OSSE.
- 5104.37 Panel records shall be made available to the public in an accessible and readable format.
- 5104.38 The Panel shall maintain written minutes of all public meetings. Minutes shall be made available to the public for inspection during normal business hours.
- 5104.39 The OSSE shall provide administrative and technical support, and coordination assistance, including designating office space, to the Panel as needed and as determined by the OSSE and as supported by budget appropriation and authority.
- 5104.40 The OSSE shall ensure that the Panel's decisions are implemented and, within the limits established by the Panel, shall respond to public inquiries and correspond with other agencies, nonpublic schools, and the public on behalf of the Panel.
- 5104.41 The Panel may utilize District public space to sponsor or hold meetings in accordance with District laws and regulations.

5199 DEFINITIONS

For the purposes of this sub-chapter, the term:

- (1) "DCPS" means a public local education system or the LEA led by the Chancellor.
- (2) "IDEA" means the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C.S. § 1400 et seq.), and its implementing regulations.
- (3) "Individualized education plan" or "IEP" means a written plan that specifies the special education programs and services to be provided to meet the unique

educational needs of a student with a disability, as required under section 614(d) of the IDEA [20 U.S.C.S. § 1414(d)].

- (4) (A) "Nonpublic special education school or program" means a privately owned or operated preschool, school, educational organization, or program, no matter how titled, that maintains or conducts classes for the purpose of offering instruction, for a consideration, profit, or tuition, to students with disabilities.
- (B) The term "nonpublic special education school or program" shall not include a privately owned or operated preschool, elementary, middle, or secondary school whose primary purpose is to provide educational services to students without disabilities, even though the school may serve students with disabilities in a regular academic setting.
- (5) "Panel" means the Rate Reconsideration Panel established by § 38-2561.14.
- (6) "Rates" are the annual or per-diem costs paid to each nonpublic special education school or program, for tuition and for each unit of related service delivered.
- (7) "Special education" shall have the same meaning as provided in section 602(29) of the IDEA [20 U.S.C.S. § 1401(29)].
- (8) "State education agency" or "SEA" means the District of Columbia Public Schools, or any successor agency that has primary responsibility for the state-level supervisory functions for special education that are typically handled by a state department of education or public instruction, a state board of education, a state education commission, or a state education authority.
- (9) "Student with a disability" means a student determined to have:
 - (A) Autism;
 - (B) Deaf-blindness;
 - (C) A developmental delay;
 - (D) A hearing impairment, including deafness;
 - (E) Mental retardation;
 - (F) Multiple disabilities;
 - (G) An orthopedic impairment or other health impairment;
 - (H) An emotional disturbance;

- (I) A severe disability;
- (J) A specific learning disability;
- (K) A speech or language impairment;
- (L) A traumatic brain injury;
- (M) A visual impairment, including blindness; or
- (N) Any other condition, disability, or impairment described in section 602(3) of the IDEA [20 U.S.C.S. § 1401(3)], or in 29 U.S.C.S. § 706(8) [repealed, see now 29 U.S.C.S. § 705(20)].

All persons who desire to comment on these proposed rules should submit their comments in writing to Deborah A. Gist, State Superintendent of Education, 441 4th Street, NW, Room 350N, Washington, D.C. 20001, Attn: Ms. Fonda Sutton, Director, Policy, Research & Analysis. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) day after publication of this notice in the DC Register. Copies of this proposed amendment and related information may be obtained by writing to the above address, or by calling the Office of the State Superintendent of Education at (202) 727-6436.

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005**

AMENDED NOTICE OF PROPOSED RULEMAKING

**FORMAL CASE NO. 982, IN THE MATTER OF THE INVESTIGATION OF
POTOMAC ELECTRIC POWER COMPANY REGARDING INTERRUPTION TO
ELECTRIC ENERGY SERVICE;**

**FORMAL CASE NO. 1002, IN THE MATTER OF THE JOINT APPLICATION OF
PEPCO AND THE NEW RC, INC. FOR AUTHORIZATION AND APPROVAL OF
MERGER TRANSACTION**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Official Code,¹ of its intent to adopt Chapter 36, Electricity Quality of Service Standards ("EQSS") to be codified in Title 15 of the District of Columbia Municipal Regulations ("DCMR") in not less than 30 days from publication of this Amended Notice of Proposed Rulemaking ("Amended NOPR") in the *D.C. Register*. This Amended NOPR supersedes the initial NOPR published on May 4, 2007 in 54 *D.C. Register* 4190-4204. Interested persons are invited to comment on the proposed EQSS in its entirety, and are not restricted to comment on the amendments proposed herein.

2. The proposed EQSS combine previous Commission-approved standards with newly proposed standards.² In addition, the EQSS incorporate the terms of Section 34-401 of the District of Columbia official code.³ The EQSS serve to establish standards and requirements for ensuring that the electric utility operating in the District of Columbia meet an adequate level of quality and reliability in the electricity service provided to District of Columbia residents.

3. On June 4, 2007, the Potomac Electric Power Company ("PEPCO") filed comments in response to the initial NOPR proposing certain minor revisions to the EQSS. As found appropriate, PEPCO's proposed revisions have been incorporated into the proposed EQSS herein. Specifically, Sections 3601.1, 3601.12, 3601.15, and 3601.16 have been modified as

¹ D. C. Official Code, 2001 Ed. § 2-505.

² The EQSS is an attempt to codify for publication in the D.C. Register the previously Commission-approved "Service Outage and Restoration Performance Standards for Reports to the District of Columbia Public Service Commission" ("Reporting Standards") and the interim standards for customer service and system reliability – "Customer Service and Reliability Standards" ("CSRS"), as well as new electricity service quality standards discussed further herein.

³ D.C. Official Code § 34-401, "Utilities to report accidents; Commission may investigate" (requiring public utilities to notify and report to both the Public Service Commission and the Office of the People's Counsel whenever there is an incident resulting in loss of human life, personal injury requiring hospitalization, or significant service interruption).

follows for clarity and consistency:

- 3601.1 The electric utility shall report all major and non-major electricity service outages and manhole incidents, as well as incidents known to the electric utility that result in the loss of human life, personal injury requiring hospitalization, or service disruption directly or indirectly arising from or connected with the electric utility's maintenance or operation, that occur on the electric system within the District of Columbia to the Public Service Commission of the District of Columbia and to the Office of the People's Counsel of the District of Columbia.
- 3601.12 At a minimum, each telephone report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:
- 3601.15 Written reports concerning all incidents that result in the loss of human life and/or personal injury requiring hospitalization, directly or indirectly arising from or connected with the electric utility's maintenance or operation, shall be submitted to the Commission's Office of Engineering and the Office of the People's Counsel within five (5) days of receiving notice of the incident.
- 3601.16 At a minimum, each written report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:
- (g) The amount of time it took for assistance to arrive (if known); and
- 3601.23 The utility shall report on its Section 3601.21 records every six (6) months. The report shall be submitted to the Commission forty-five days following the reporting period, starting with the six (6) month reporting period following the EQSS's adoption in Title 15 of the District of Columbia Municipal Regulations (DCMR).
- 3602.16 The utility shall regularly report on its performance pursuant to Section 3602.14 every six (6) months. The report shall be submitted to the Commission forty-five (45) days following the reporting period, starting with the six (6) month reporting period following the EQSS' adoption in Title 15 of the DCMR.

4. In addition, the proposed EQSS have been amended to include provisions concerning billing error notifications as set forth in Section 3604.

CHAPTER 36

ELECTRICITY QUALITY OF SERVICE STANDARDS

Secs.

3600

Purpose and Applicability

- 3601 Reporting Requirements for Service Outages, Manhole Incidents, and
Power Quality Complaints
- 3602 Customer Service Standards
- 3603 Reliability Standards
- 3604 Billing Error Notification
- 3699 Definitions

3600 **PURPOSE AND APPLICABILITY**

- 3600.1 The purpose of this chapter is to establish standards and requirements for ensuring that an electric utility operating in the District of Columbia meets an adequate level of quality and reliability in the electricity service provided to District of Columbia customers.

- 3600.2 This chapter shall apply to an electric utility company operating in the District of Columbia, subject to the authority of the Public Service Commission.

3601 **REPORTING REQUIREMENTS FOR SERVICE OUTAGES, MANHOLE INCIDENTS, AND POWER QUALITY COMPLAINTS**

- 3601.1 The electric utility shall report all major and non-major electricity service outages and manhole incidents, as well as incidents known to the electric utility that result in the loss of human life, personal injury requiring hospitalization, or service disruption directly or indirectly arising from or connected with the electric utility's maintenance or operation, that occur on the electric system within the District of Columbia to the Public Service Commission of the District of Columbia and to the Office of the People's Counsel of the District of Columbia.

- 3601.2 Upon notice of the incident, all major service outages shall be reported by telephone to the Public Service Commission's Office of Engineering and to the Office of the People's Counsel as soon as practicable, but not later than one (1) hour after the utility has determined a major service outage had occurred.

- 3601.3 At a minimum, each telephone report rendered by the utility subsequent to a major service outage shall state clearly the following information:

- (a) The location of the service outage(s);
- (b) The Ward(s) where the service outage(s) occurred;
- (c) The total number of customers out of service;
- (d) A preliminary assessment as to the cause of the service outage(s);
- (e) The estimated repair and/or restoration time; and

- (f) A notification that the incident has progressed to major service outage status as defined herein.

- 3601.4 During the course of a major service outage, the utility shall report periodically to the Public Service Commission's Office of Engineering regarding the status of the service outage and the utility's progress in restoration efforts. The frequency of such periodic updates to the Office of Engineering shall be jointly determined by the utility and the Office of Engineering at the start of the service outage and/or as modified during the course of the service outage. At a minimum, the utility shall provide an update to the Office of Engineering and to the Office of the People's Counsel prior to making any changes to its estimated restoration time.
- 3601.5 Specific restoration information, including estimated restoration times, shall be provided to District of Columbia customers by the utility's customer service representatives and by the utility's automated voice response unit.
- 3601.6 The utility shall report non-major service outages by telephone to the Public Service Commission's Office of Engineering and the Office of the People's Counsel as soon as practicable upon notice of the incident, but no later than one (1) hour after the utility becomes aware of the incident.
- 3601.7 Notwithstanding the above:
- (a) The utility shall report a single customer service outage of more than eight (8) hours only upon verification that the service outage was caused by some event on the utility's side of the customer's meter; and
 - (b) No report need be filed if the single customer service outage was caused by some event on the customer's side of the meter.
- 3601.8 At a minimum, each telephone report concerning a non-major service outage shall state clearly the following information:
- (a) The location of the service outage(s);
 - (b) The Ward(s) where the service outage(s) occurred;
 - (c) The total number of customers out of service;
 - (d) A preliminary assessment as to the cause of the service outage(s); and
 - (e) The estimated repair and/or restoration time.
- 3601.9 The utility shall report by telephone all manhole incidents, including smoking manholes, manhole fires, and manhole explosions, to the Commission's Office of

Engineering and the Office of the People's Counsel within thirty (30) minutes upon receiving notice of the incident.

- 3601.10 At a minimum, each telephone report concerning a manhole incident shall state clearly the following information:
- (a) The location of the incident(s);
 - (b) The Ward(s) where the incident(s) occurred;
 - (c) The total number of customers out of service;
 - (d) A preliminary assessment as to the cause of the incident(s); and
 - (e) The estimated repair and/or restoration time.
- 3601.11 The utility shall report by telephone all incidents that result in the loss of human life and/or personal injury requiring hospitalization, directly or indirectly arising from or connected with the electric utility's maintenance or operation, to the Commission's Office of Engineering and the Office of the People's Counsel within thirty (30) minutes upon receiving notice of the incident.
- 3601.12 At a minimum, each telephone report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:
- (a) The location of the incident(s);
 - (b) The Ward(s) where the incident(s) occurred;
 - (c) The total number of customers and/or persons affected;
 - (d) A preliminary assessment as to the cause of the incident(s); and
 - (e) The steps the electric utility will take to provide assistance.
- 3601.13 A written report concerning all non-major service outages and/or manhole incidents shall be submitted to the Commission and the Office of People's Counsel within five (5) days of the event occurrence.
- 3601.14 At a minimum, each written report concerning non-major service outages and/or manhole incidents shall state clearly the following information as applicable to the given incident:
- (a) A description of the service outage(s) and/or incident(s) and information as to the cause of the event(s);

- (b) The location of the service outage(s) and/or incident(s);
- (c) The Ward(s) where the service outage(s) or incident(s) occurred;
- (d) The exact time of the service outage(s) or incident(s) occurrence;
- (e) The actual repair and restoration times of the service outage(s) and/or incident(s);
- (f) The duration of the service outage(s) and/or incident(s) in hours and minutes;
- (g) The total number of customers affected by the service outage(s) and/ or incident(s);
- (h) The number of manholes involved in the incident(s); and
- (i) The classification of the manhole incident(s).

3601.15 Written reports concerning all incidents that result in the loss of human life and/or personal injury requiring hospitalization, directly or indirectly arising from or connected with the electric utility's maintenance or operation, shall be submitted to the Commission's Office of Engineering and the Office of the People's Counsel within five (5) days of receiving notice of the incident.

3601.16 At a minimum, each written report concerning the loss of human life and/or personal injury requiring hospitalization shall state clearly the following information:

- (a) A description of the incident(s) and information as to the cause of the event(s);
- (b) The location of the incident(s);
- (c) The Ward(s) where the incident(s) occurred;
- (d) The exact time of the incident(s) occurrence;
- (e) The total number of customers and/or persons affected;
- (f) The steps the electric utility took to provide assistance;
- (g) The amount of time it took for assistance to arrive (if known); and

- (h) The steps the electric utility will undertake to prevent such an occurrence in the future.

3601.17 The utility shall provide a detailed report on all non-major service outages, manhole incidents, and/or incidents that result in the loss of human life and/or personal injury requiring hospitalization, to the Productivity Improvement Working Group ("PIWG") every quarter.

3601.18 The utility shall file a written report concerning all major service outages with the Public Service Commission and the Office of People's Counsel within three (3) weeks following the end of a major service outage.

3601.19 At a minimum, each written report concerning a major service outage shall state clearly the following information:

- (a) The date and time when the major service outage started, and the date and time when the major service outage ended;
- (b) The date and time when the restoration effort started, and the date and time when the restoration effort ended;
- (c) The date and time when the maximum number of customers were experiencing a sustained interruption and the total number of customers affected at that time (both on a system-wide basis and for the District of Columbia only);
- (d) The total number of customers that experienced a sustained interruption given in one hour intervals throughout the major service outage (both on a system-wide basis and for the District of Columbia only);
- (e) The total number of customer interruption durations (converted into hours) during the major service outage (both on a system-wide basis and for the District of Columbia only);
- (f) Any information concerning requests made for outside assistance, including the organization(s) to which such requests were made, the date and time of the requests, and the resources requested;
- (g) Any information concerning outside assistance received, including the organization(s) that provided personnel, the date(s) and time(s) of personnel arrivals and departures, the number of and types of vehicles provided, the total number of personnel received, the total number of personnel assigned to primary overhead line crews, the total number of personnel assigned to secondary overhead line crews, the total number of personnel assigned to tree trimming crews, the total number of personnel assigned to primary underground line crews, the total number of personnel

assigned to secondary underground line crews, and the total number of personnel assigned to substation crews;

- (h) Any information concerning the utility's own personnel and resources used in restoration efforts, including the total number and types of vehicles used, the total number of utility personnel involved in the restoration effort, the number of personnel assigned to primary overhead line crews, the total number of personnel assigned to secondary overhead line crews, the total number of personnel assigned to damage assessment crews, the total number of personnel assigned to tree trimming crews, the total number of personnel assigned to primary underground line crews, the total number of personnel assigned to secondary underground line crews, the total number of personnel assigned to substation crews, and the total number of personnel assigned to other supporting activities;
- (i) Any information concerning customer communications, including the hourly call volumes (specifically identifying the total number of customer calls received and the total number of calls answered by the utility during each hour of the service outage), the hourly staffing numbers (specifically identifying the total number of customer service representatives logged into the call center and supporting phone systems actively taking or waiting to take customer calls), and the telephone service factor provided on an hourly basis during the entire duration of the service outage (specifically identifying the percentage of answered calls that were answered within a 60-second timeframe);
- (j) The total number of customers interrupted and the customer interruption durations (converted into hours) caused by each of the following: fallen tree or tree limb, fallen or broken pole, lightning damage, ice accumulation on conductors, and any other major causes (both on a system-wide basis and for the District of Columbia only);
- (k) The total number of each of the following occurring as part of the restoration efforts: the number of poles replaced, the number of distribution transformers replaced, the number of fuses replaced, the number of downed wires, the number and location of substations where equipment was damaged, the number of cross-arms issued for replacement, and the total length (in feet) of secondary and primary wires replaced or issued for replacement (both on a system-wide basis and for the District of Columbia only);
- (l) Any issues concerning the availability of materials that affected restoration progress and a description of the emergency measures taken to resolve such issues;

- (m) A self-assessment of the utility's restoration efforts in the District of Columbia;
- (n) The total number of customers, and percent of all customers, restored given in one hour intervals throughout the major service outage restoration effort (both on a system-wide basis and for the District of Columbia only); and
- (o) An analysis, based upon the availability of the data and all other surrounding circumstances, of the utility's performance in its current restoration efforts as compared to its past restoration efforts, taking into account all relevant factors, such as the severity of the current major service outage in terms of the percent of customers affected on a system-wide or local basis.

- 3601.20 The utility shall submit a written report to the Commission on its Outage Management System's ("OMS") actual performance during the major service outage within thirty (30) days after restoration efforts are completed.
- 3601.21 The utility shall record the number of power quality complaints received, the types of complaints received, the results of any subsequent investigations and the corrective actions taken, and the time it took to resolve the customer's problem.
- 3601.22 Power quality problems shall include, but shall not be limited to disturbances such as voltage spikes or transients, flicker and voltage sags, surges and short-time over-voltages, as well as harmonics and noise.
- 3601.23 The utility shall report on its Section 3601.21 records every six (6) months. The report shall be submitted to the Commission forty-five days following the reporting period, starting with the six (6) month reporting period following the EQSS' adoption in Title 15 of the District of Columbia Municipal Regulations (DCMR).
- 3601.24 The report submitted pursuant to Section 3601.23 shall exclude complaints resolved by the initial response of a trouble crew.

3602 **CUSTOMER SERVICE STANDARDS**

- 3602.1 The electric utility shall maintain a customer service (walk-in) office physically located in the District of Columbia.
- 3602.2 The electric utility shall answer seventy (70) percent of all customer phone calls received within thirty (30) seconds and shall maintain records delineating customer phone calls answered by a utility representative or an automated operator system. The electric utility shall measure and report on the average

customer wait time of a customer transferred from an automated operator system to a utility representative.

- 3602.3 The utility's statistics concerning customer calls answered shall exclude calls made during periods of major telecommunication failures, periods of labor disruptions and periods of major service outage.
- 3602.4 If the utility fails to meet the Section 3602.2 standard, it shall be required to develop a corrective action plan.
- 3602.5 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.2, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).
- 3602.6 Progress on current corrective action plans shall be included in the utility's annual Productivity Improvement Plan (PIP) report.
- 3602.7 The utility shall report the actual call center performance during the reporting period in the annual PIP of the following year.
- 3602.8 The utility shall maintain a call abandonment rate below ten (10) percent.
- 3602.9 The utility's call abandonment statistics shall exclude calls made during periods of major telecommunication failures, periods of labor disruption and periods of major service outage.
- 3602.10 If the utility fails to meet the standard set in Section 3602.8, it shall be required to develop a corrective action plan.
- 3602.11 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.8, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).
- 3602.12 Progress on any current corrective action plans will be included in the utility's annual PIP report.
- 3602.13 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.
- 3602.14 The utility shall complete installation of new residential service requests within ten (10) business days of the start date for the new installation.
- 3602.15 The start date for new installations shall be designated as the first business day after all of the following events have taken place;

- (a) The customers' valid billing information is received;
- (b) The site is ready for service (cleared, graded, staked, etc.);
- (c) The service connection fee is paid;
- (d) The electrical inspection is received;
- (e) The security deposit is paid;
- (f) All mainline primary and transformers are installed;
- (g) Any required public space excavation is completed;
- (h) Any delays due to weather emergencies do not intervene;
- (i) All right-of-way and permits are obtained; and
- (j) In the case of net metering facilities, all the applicable contract terms and conditions are met.

- 3602.16 The utility shall regularly report on its performance pursuant to Section 3602.14 every six (6) months. The report shall be submitted to the Commission forty-five (45) days following the reporting period, starting with the six (6) month reporting period following the EQSS' adoption in Title 15 of the DCMR.
- 3602.17 After four (4) Section 3602.16 reports have been submitted, the frequency of the reporting may be changed by the Commission.
- 3602.18 The Section 3602.16 report shall clearly state the total number of new residential service installation requests received during the relevant reporting period, and of the new residential installation service requests received, the percentage of new residential service connections that were completed in accordance with Section 3602.14.
- 3602.19 If the utility fails to meet the standard set in Section 3602.14, it shall be required to develop a corrective action plan.
- 3602.20 The corrective action plan shall describe the cause(s) of the utility's non-compliance with Section 3602.14, describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and set a target date for completion of the corrective measure(s).
- 3602.21 Progress on any current corrective action plans will be included in the utility's annual PIP report.

3602.22 The utility shall report the actual performance obtained during the reporting period in the annual PIP of the following year.

3603 **RELIABILITY STANDARDS**

3603.1 The electric utility shall implement a plan to improve the performance of the two (2) percent least performing feeders such that no feeder in the two (2) percent least performing group shall repeat as a member of the two (2) percent least performing feeders following implementation of the plan.

3603.2 Individual feeder performance shall be determined using the utility's composite performance index.

3603.3 If the utility fails to comply with Section 3603.1, it shall be required to develop a corrective action plan.

3603.4 The corrective action plan shall clearly describe the cause(s) of the utility's non-compliance with Section 3603.1 (including an explanation as to why a particular feeder has remained on the list after the implementation of the plan in 3603.1), describe the corrective measure(s) to be taken to ensure that the standard is met or exceeded in the future, and provide a target date for completion of the corrective measure(s).

3603.5 The utility shall report on the progress of the corrective action plan in the Annual Consolidated Report submitted to the Commission.

3603.6 The utility shall continue the current annual PIP reporting of the worst performing (lowest two (2) percent) feeders (utility methodology) and corresponding corrective action plans, with the action taken in year 1 and the subsequent performance in year 2.

3603.7 The utility shall complete service restoration within twenty-four (24) hours following a non-major service outage.

3603.8 The utility shall report on the number and percentage of non-major service outages that extend beyond the twenty-four (24) hour standard and the causes for these extended service outages.

3603.9 The report drafted pursuant to Section 3603.8 shall be included in the annual PIP report on reliability data.

3603.10 The utility shall not exceed the benchmark levels established for the following indices: System Average Interruption Frequency Index (SAIFI), System Average

Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI).

- 3603.11 The benchmark levels for SAIFI, SAIDI, and CAIDI shall be calculated as follows:
- (a) For 2006, the benchmark calculations shall take into account three (3) full years (2003-2005) of the utility's OMS data;
 - (b) For 2007, the benchmark calculations shall take into account four (4) full years (2003-2006) of the utility's OMS data;
 - (c) Thereafter, five (5) full years of OMS data shall be used in calculating the benchmarks;
 - (d) The calculations shall exclude OMS data from major event days consistent with the I.E.E.E. 1366, Guide for Electric Power Distribution Reliability Indices standard as approved and as may be revised;
 - (e) The utility shall calculate its SAIFI, SAIDI, and CAIDI for each year in accordance with the requirements established in Sections 3603.11(a)-(c);
 - (f) The utility shall calculate the average and standard deviation for each of the SAIFI, SAIDI and CAIDI calculations; and
 - (g) The benchmark shall be calculated by adding two (2) standard deviations to the average value.
- 3603.12 Applying the Section 3603.11 methodology, the SAIFI, SAIDI and CAIDI benchmarks for 2006 shall be as follows:
- (a) SAIFI = 1.09;
 - (b) SAIDI = 3.52 hours; and
 - (c) CAIDI = 3.72 hours.
- 3603.13 The SAIFI, SAIDI and CAIDI benchmarks shall be reset annually using a rolling five (5) year average.
- 3603.14 If the utility fails to comply with Section 3603.10, it shall be required to develop a corrective action plan.
- 3603.15 The corrective action plan shall clearly describe the cause(s) of the utility's deterioration in performance and failure to comply with Section 3603.10, describe the corrective measure(s) to be taken to ensure that the standard is met or

exceeded in the future, and provide a target for completion of the corrective measure(s).

3603.16 The utility shall report on the progress on the corrective action plan in the annual PIP report submitted to the Commission.

3603.17 The utility shall also, per the orders of the Commission, continue current requirements of reporting annual reliability indices of SAIFI, SAIDI and CAIDI (with and without major events) in the annual PIP of the following year.

3604 **BILLING ERROR NOTIFICATION**

3604.1 The electric utility and all electricity service providers must inform the Commission's Office of Engineering and the Office of the People's Counsel when a billing error has affected 100 or more customers or the number of affected customers is equal to or more than two (2) percent of the electric utility's or electricity service provider's customer base. The electric utility and electricity service providers with a customer base of less than 100 customers shall report errors when two (2) or more customers are affected.

3604.2 The electric utility and all electric service providers shall file an initial billing error notification within one (1) business day of discovering or being notified of the error. After submitting the initial notification, the electric utility and electric service providers must submit a follow-up written report within fourteen (14) calendar days and a final written report within sixty (60) calendar days.

3604.3 The initial billing error notification shall be sent by electronic mail to the Commission's Office of Engineering and to the Office of the People's Counsel.

3604.4 The initial billing error notification shall contain the following information:

- (a) The type(s) of billing error(s) found;
- (b) The date and time the billing error(s) was discovered;
- (c) How the electric utility or electric service provider discovered the error(s);
and
- (d) The approximate number of customers affected.

3604.5 The follow-up written report shall contain the following information:

- (a) The type(s) of billing error(s);
- (b) The date and time of the billing error(s);

- (c) The number of customers affected;
- (d) The cause of the error and status of any and all corrective action(s) taken; and
- (e) The timeline for completing any and all other required corrective action(s).

3604.6 The final written report shall contain the following information:

- (a) The type(s) of billing error(s);
- (b) The date and time of billing error(s);
- (c) The number of customers affected and the dollar amount involved;
- (d) The duration of the billing error(s);
- (e) The corrective action(s) and preventative measure(s) taken; and
- (f) The lessons learned, if any.

3604.7 Upon receipt of the final written report, the Commission shall determine whether any further investigation is necessary.

3699 DEFINITIONS

3699.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Abandoned Calls – a call received from a customer that a customer terminates after the customer selects the menu option and is placed in the queue, but before the call is answered by the utility customer representative or any other automated response system.

Call Abandonment Rate – the annual number of calls to the utility's call center or business office that were abandoned, divided by the total number of calls that the company received.

Call Answering – a process whereby a utility representative, voice response unit, or other automated operator system is ready to render assistance or ready to accept information necessary to process a customer's call. An acknowledgement that the customer is waiting on the line does not constitute an answer.

Composite Performance Index (CPI) – a measure of feeder performance that combines, in a single number, four measures of distribution feeder performance: (1) number of interruptions, (2) number of customer hours of interruption, (3) system average frequency of interruption, and (4) system average interruption duration.

Customer Average Interruption Duration Index (CAIDI) – a performance index that measures the average time required to restore service to the average customer experiencing a sustained interruption per sustained interruption. The measure is calculated by dividing the sum of all customer interruption durations (converted into hours) by the total number of customer sustained interruptions.

Interruption duration – the period of time, truncated or rounded to the nearest minute, during which a sustained interruption occurs.

Major service outages – customer interruption occurrences and durations during time periods when more than 10,000 of the electric utility's District of Columbia customers are without service and the restoration effort due to this major service outage takes more than twenty-four (24) hours.

Manhole fire – incident in which flame is visible at holes in the manhole cover or around the cover's edge and the cover remains seated in its frame.

Manhole explosion – incident in which a release of energy from the manhole occurs and one or more manhole covers are dislodged from their respective frames, or other debris, such as cement or dirt, is projected into the air.

Momentary interruption – loss of electric service of a duration limited to the time required to restore electric service by automatic and supervisory-controlled switching operation or by manual switching at a location where an operator is immediately available. If the automatic, supervisory-controlled or manual switching is not completed within five (5) minutes of the initial loss of service, the interruption is considered a sustained interruption.

Non-major service outages – customer service outages caused by the failure of devices such as breakers, fuses, feeder lines, substation equipment, etc., lasting over eight (8) hours, regardless of how many customers are affected; or customer service outages affecting over 100 but less than 10,000 customers, regardless of duration.

Outside assistance – resources not routinely used by a utility for service restoration. Resources transferred among utility operating areas are not considered outside assistance.

Power quality – the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations, either prolonged or transient.

Smoking manhole – a manhole incident in which smoke, but no visible flame, is escaping from holes in the cover or around the cover's edge.

Sustained interruption – loss of electric service not classified as a momentary interruption.

System Average Interruption Duration Index (SAIDI) – a performance index that measures the average time customers are interrupted and is calculated by dividing the sum of all customer interruption durations (converted into hours) by the total number of customers served.

System Average Interruption Frequency Index (SAIFI) – a performance index that measures the average frequency of interruptions per customer and is calculated by dividing the total number of customer sustained interruptions by the total number of customers served.

Telephone service factor – the percentage of calls answered within a specified amount of time. For example, if the service level time is set at thirty (30) seconds and 70 percent of calls are answered in less than 30 seconds, then the telephone service factor is 70.

5. Comments on the proposed EQSS must be made in writing to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington, DC 20005. All comments must be received within 30 days of the date of publication of this Notice in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date of publication of this Notice in the *D.C. Register*. Once the comment and reply periods have expired, the Commission will take final rulemaking action.